

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope, with sufficient postage, addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date indicated below:

Daniel B. Schein
Daniel B. Schein, Ph.D., Esq., Reg. No. 33,551

24 August 04
Date of Signature

Our Case No.: 10437-69

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Fukunaga, Atsuo F. et al.

Serial No.: 10/777,772

Filing Date: February 12, 2004

For: BREATHING CIRCUITS HAVING
UNCONVENTIONAL
RESPIRATORY CONDUITS AND
SYSTEMS AND METHODS FOR
OPTIMIZING UTILIZATION OF
FRESH GASES

Examiner: Unassigned

Group Art Unit No.: 3743

**PETITION TO MAKE SPECIAL UNDER 37 CFR §1.102(c)
NO FEE REQUIRED**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants, via their undersigned attorney, respectfully petition to make the present application special for advancement of examination out of order in accordance with 37 CFR §1.102(c). The basis for this petition is that the inventor Atsuo F.

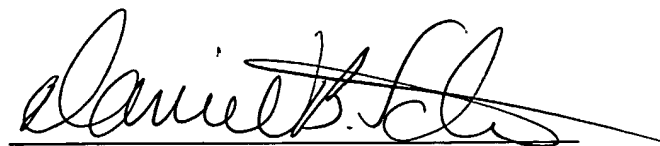
Fukunaga, M.D., Ph.D., was over the age of 65 years at the time of filing the present application. Submitted herewith is a Declaration of Dr. Fukunaga attesting to same.

24 August 2004
Date

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San Jose, CA 95159

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel B. Schein", written over a horizontal line.

Daniel B. Schein, Ph.D., Esq.
Registration No. 33,551
Attorney for Applicants



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DECLARATION OF INVENTOR TO SUPPORT PETITION TO MAKE SPECIAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I, Atsuo F. Fukunaga, declare under oath that I was at least age 65 years at the time of filing the present application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

6/30/04
Date

Atsuo F. Fukunaga
Atsuo F. Fukunaga